

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|   |                                   |
|---|-----------------------------------|
| CHRISTIAN RODRIGUEZ and ISAAC )                       |                                   |
| DIAZ, <i>on behalf of themselves and all others</i> ) | Civil Action No. 22-838           |
| <i>similarly situated,</i> )                          |                                   |
| Plaintiffs, )   | District Judge W. Scott Hardy     |
| )   | Magistrate Judge Maureen P. Kelly |
| v. )  |                                   |
| PPG INDUSTRIES, INC., )                               |                                   |
| Defendant. )  |                                   |

**ORDER OF COURT**

AND NOW, this 9<sup>th</sup> day of March, 2023, upon consideration of Defendant PPG Industries, Inc.'s ("PPG") Objections to the Report and Recommendation ("R&R") issued by Magistrate Judge Maureen P. Kelly on January 27, 2023, recommending that PPG's Motion to Dismiss Plaintiffs' Amended Complaint in Part under Rule 12(b) and to Strike Portions of the Amended Complaint under Rule 12(f) be denied, IT IS HEREBY ORDERED that, as fully set forth in the Court's Memorandum Opinion filed herewith, PPG's Objections to the R&R (Docket No. 40) are sustained, the Report and Recommendation (Docket No. 39) is ACCEPTED IN PART AND REJECTED IN PART, and the Court incorporates those accepted portions of the R&R into its Memorandum Opinion.

IT IS FURTHER ORDERED that:

1. PPG's Motion to Dismiss Plaintiffs' Amended Complaint in Part under Rule 12(b) and to Strike Portions of the Amended Complaint under Rule 12(f) (Docket No. 23) is GRANTED IN PART AND DENIED IN PART.

2. PPG's motion is GRANTED to the extent that it seeks to have Plaintiffs' claims under the laws of states other than California and Nevada be dismissed pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted. Accordingly, such claims are DISMISSED WITHOUT PREJUDICE to Plaintiffs' amendment of the Amended Complaint.
3. PPG's motion is DENIED, conditionally, to the extent that it seeks to have the Court strike, pursuant to Rule 12(f), the portions of the Amended Complaint regarding Plaintiffs' unspecified state law claims. Those portions of the Amended Complaint shall remain as Plaintiffs are permitted to amend such claims.
4. If Plaintiffs choose to file a Second Amended Complaint, they shall do so by **April 10, 2023**, in which case PPG shall file its response thereto by **May 10, 2023**.
5. If Plaintiffs do not file a Second Amended Complaint by **April 10, 2023**, then the Court will grant PPG's Rule 12(f) motion to strike the portions of the Amended Complaint regarding Plaintiffs' unspecified state law claims, and will deem stricken from the Amended Complaint references to claims under the laws of states other than California and Nevada (including those found at Docket No. 11, ¶¶ 1, 18, 19, 21, 29, 36, 40, 44, 48, 49, 50, 52, 55, 56, 59, 60, 69, 70, 71, and 84-88), and PPG will file its Answer to the remainder of Plaintiffs' Amended Complaint by **May 10, 2023**.

*/s W. Scott Hardy*  
W. Scott Hardy  
United States District Judge

cc: All counsel of record